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Report of the Working Group on Arbitrary Detention on its mission to Azerbaijan

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the comments by the State on the report of the Working Group on Arbitrary Detention on its mission to Azerbaijan.

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Report of the Working Group on Arbitrary Detention on its mission to Azerbaijan: comments by the State*

General comments

The visit by the Working Group on Arbitrary Detention to the Republic of Azerbaijan, which took place in accordance with the standing invitation of the country on 16-25 May 2016, was considered in the context of further enhancement of constructive cooperation between Azerbaijan and relevant UN mechanisms. As a sign of openness and willingness for constructive engagement, the Azerbaijani side organized all requested meetings of the Working Group with authorities, as well as created necessary conditions for it to meet with persons in detention upon its request.

We appreciate the position of the Working Group reflected in its report regarding the cooperative spirit of the Government of Azerbaijan during the preparation and organization of the visit.

Azerbaijan is ready to continue dialogue and interaction with UN human rights mechanisms on the basis of mutual respect and understanding, and the extension of standing invitation to UN special procedure mandate holders is an example of Azerbaijan's constructive approach to this end.

Azerbaijan is continuing enhanced interaction with UN Human Rights Council and Office of the UN High Commissioner for Human Rights. Close cooperation has been pursued also with UN treaty bodies through regularly submitting reports on measures taken to ensure and promote the rights and freedoms stipulated in international instruments.

Systemic and wide range of legal reforms are being pursued by Azerbaijani authorities to ensure human rights and fundamental freedoms in the country. One of the most recent steps to this end has been the Executive Order signed by the President on February 10th, 2017 aiming at furtherance of legal reforms in penal field and humanization of penal policies. The Executive Order represents a roadmap for further improvement in the operation of penitentiary institutions, elimination of shortcomings within their activities and exclusion of cases of corruption in the field of criminal proceedings and execution of sentences, and humanization of penal policies in the country. It has taken into account best practices of advanced nations and provisions of international instruments in the field of human rights. The Executive Order also addresses many questions raised by the European Court of Human Rights in its case-law, in particular those taken with respect to Azerbaijan.

One of the objectives of the Executive Order is a wider use of non-custodial means for the purposes of justice, and it has instructed to establish the Probation Service within the Ministry of Justice and to introduce information and communication technologies for enforcement of sentences. To this end, use of electronic ankle tracking devices shall be introduced in execution of sentences and application of measures of restraint.

According to the Executive Order, judicial and law enforcement authorities shall consider drafting the following laws within short time:

- decriminalisation of certain crimes;
- provision of the sentences alternative to imprisonment in the criminal legislation;

* Reproduced as received.

- development of grounds for non-custodial measures of restraint and sentences alternative to imprisonment;
- wider application of institutions of substitution of remainder of imprisonment by lighter punishment, parole and suspended sentence;
- further promotion of application of measures of restraint alternative to arrest;
- simplification of rules for amendment of arrest by alternative measures of restraint; and
- further limitation of grounds for arrest for low-risk or less serious crimes.

The President has also recommended to the judicial authorities to refuse from general practice of arresting individuals and to refer mostly to alternative measures of restraint.

Based on the proposals of the Working group comprised of representatives of the Supreme Court, Prosecutor General's Office, Ministry of Justice and Ministry of Interior, which had been established to ensure implementation of the instructions and recommendations of the Executive Order, the draft law encompassing comprehensive amendments to the Criminal Code was elaborated and already submitted to the Milli Mejlis (National Parliament) of the Republic of Azerbaijan upon the initiative of the President of the Republic of Azerbaijan at the end of June 2017. This largest – by its scope, conceptual and regulative nature – package of proposals covers a number of issues, including introduction of alternative sanctions, liberalisation of the legislation with respect to a number of crimes against property and economic crimes, improvement of institution of friendly settlement with the victim of crime, decriminalisation of a number of offences and others.

Specific comments

II Program of the visit

Paragraph 6:

The temporary detention places (TDP) consist of two parts, the detention cells of arrested or detained persons and service-technical rooms, as well as investigation, visiting, recognition, medical, storage, kitchen and other rooms. Opportunities were created for access of the members of the Working Group to temporary detention places, especially detention cells of the arrested or detained persons without hindrance. In some cases, technical household rooms were not accessed, since they were closed, at the same time, the members of the Working Group did not request these rooms to be opened.

III Overview of the institutional and legal framework

A. Political system and institutional framework

Pursuant to the article 7 of the Constitution, state power in the Republic of Azerbaijan is based on a principle of division of powers:

- Milli Mejlis of the Republic of Azerbaijan exercises legislative power;
- executive power belongs to the President;
- courts exercise judicial power.

According to provisions of the Constitution executive, legislative and judicial powers interact and are independent within the limits of their authorities.

Paragraph 7:

The recent referendum took place on 26 September 2016 in the Republic of Azerbaijan, and a number of important changes were made to the Constitution. One of those changes was related to the term in office of the President of the Republic of Azerbaijan. Thus, according to the change made to Part I of Article 101 of the Constitution, the President of the Republic of Azerbaijan is elected for a term of 7 years.

In accordance with paragraphs 10 and 15 of Article 95 of the Constitution, appointments to the above-mentioned posts are within the powers of the Parliament, upon the nomination by the President of the Republic of Azerbaijan.

Paragraph 8:

In accordance with Article 4 of the Law on Courts and Judges, the cases are considered in the first instance (general and specialized courts), appeal and cassation (Supreme Court) courts. At the same time, this Law was amended by the Law 1043-IIIQD of 22 June 2010, replacing local economic courts with administrative-economic courts.

Paragraph 9:

According to the Decree of the President of 19 January 2006, Baku, Ganja, Sumgait, Shaki, Shirvan appeal courts have been established. Moreover, Supreme Court of Nakhchivan Autonomous Republic is also acting as an appeal instance court, according to Article 52 of the Law on Courts and Judges.

The "territorial jurisdiction of the courts of appeal, grave crimes, military and administrative-economic courts of the Republic of Azerbaijan" was approved by the decision of the Judicial-Legal Council of 11 April 2017. In addition to the Baku Court of Appeal, this decision determined the jurisdiction of the Ganja, Shaki, Shirvan and Sumgayit courts of appeal.

In accordance with Article 1 of the Law on the Constitutional Court, the Constitutional Court of the Republic of Azerbaijan is the supreme judicial administration body with respect to issues within its powers, as identified by the Constitution.

According to Part V of Article 130 of the Constitution, any person claiming that his rights and freedoms were violated as a result of decisions of legislative, executive and judiciary authorities may appeal to the Constitutional Court.

Besides that, the courts can solicit the Constitutional Court to comment on the respective provisions of the Constitution and laws of the Republic of Azerbaijan related to exercising human rights and fundamental freedoms. The Ombudsman of the Republic of Azerbaijan can as well file a request with the Constitutional Court to consider the compliance of normative acts of the legislative and executive bodies with acts of higher legal power.

In general, over 50 laws (including, the Laws on the Rights of Child, on Approving the Regulation on cases of minors and protection of their rights, on Neglecting minors and prevention of rights violation, on Combating Human Trafficking) on the rights of children have been adopted, various decrees, decisions and orders have been signed by the President and the Cabinet of Ministers.

In addition, Azerbaijan has joined international documents such as the UN Convention on the Rights of the Child of 20 November 1989, the UN Standard Minimum Rules for the Administration of Juvenile Justice of 29 November 1985 (The Beijing Rules), the Optional Protocol on the Sale of Children, Child Prostitution, and the Utilization of Children in Pornography and the Optional Protocol on the Participation of Children in Armed Conflict of the UN Convention of the Rights of the Child, the UN Convention against Transnational Organized

Crime of 12 December 2000, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing this Convention.

Even though currently there are no specialized juvenile courts, main criteria covered by the juvenile justice concept of protecting the minors' rights are reflected in the national legislation:

1. Features of bringing juveniles to criminal liability;
2. Conducting preliminary investigation and trial in respect of juveniles;
3. Features of sentencing and execution;
4. Various provisions on improving detention conditions of juveniles.

Thus, characteristics of pre-trial procedure in respect of children, as well as characteristics of procedure of first, appeal and cassation instances are determined by the Criminal Procedure Code. Chapter 50 of this Code is named "Characteristics of procedure in relation to juveniles," and the procedure in the first instance, appeal and cassation courts is carried out in accordance with the provisions of this Chapter and general rules envisaged in this Code.

Article 42 of the Law on the Rights of Child also includes related provisions. Thus, in that article it is noted that characteristics of the pre-trial procedure, as well as first instance, appeal and cassation court procedures in relation to children are determined by the Criminal Procedure Code.

Moreover, Chapter 15 of the Code of Execution of Punishments is entitled "Characteristics of minor convicts serving the sentence of imprisonment," and regulates related issues. Article 30 of the Law on Ensuring the Rights and Freedoms of Persons Held in Places of Detention, entitled "Characteristics of Holding Minors in Places of Detention," determines the requirements of holding such persons in places of detention.

In addition, Article 197 of the Civil Procedure Code regulates procedures for questioning a minor witness. While Article 1.4 of that Code directly prescribes that procedural legal norms envisaged in other laws shall comply with this Code's provisions.

At the same time, a close cooperation is implemented with UNICEF Office in Azerbaijan to address issues related to protecting the rights of children and supporting juvenile justice reforms. Joint action plans have been signed with the UNICEF since 2008 to this end. The action plans include measures such as carrying out reforms in administration of justice in relation to minors, organization of awareness-raising, improving legislation in this field, studying international experience, carrying out training programs for law enforcement employees, creating court room models fitting children's needs and etc.

Changes were made to "Instructions on conducting clerical work in the courts of Azerbaijan," and two groups of judges were determined at the Baku Court on Grave Crimes to review the cases of minors. In the same way, a court room equipped with technical appliances and a courtroom appropriate for children (witnesses and victims) were set up. Training courses at the Academy of Justice on juvenile justice and study visits abroad were organized for those judge groups. Taking into account this successful experience, creation of similar court rooms for children at the courts under-construction is planned.

Paragraph 10:

In accordance with Article 4 of the Law on Prosecution, the prosecution shall in accordance with circumstances and procedure envisaged by law:

- Open a criminal case and conduct primary investigation, also conduct operational search for the purpose of launching a criminal case or conducting investigation;
- Lead procedural inquiry on the criminal case and ensure compliance with the law;
- Supervise over execution and application of laws in the work of the investigation and operational-search organs;
- File motions in courts, participate as claimant in civil and economic trials;
- Participate as a party in criminal trials, defend the state prosecution;
- Protest court decisions;

Participate in achieving the purposes of the sentences issued by courts.

Paragraph 12:

According to the Presidential Decree of 14 December 2015, the State Security Service and the Foreign Intelligence Service were established on the basis of the Ministry of National Security.

IV Findings

A. Legislative developments

Paragraph 23:

The Law "On the rights and freedoms of individuals detained in detention facilities" was adopted in 2012 and amended in 2014 and 2016.

B. Deprivation of liberty in the context of immigration

Paragraph 27:

The Migration Code establishes norms concerning the implementation of the state policy in the sphere of migration, the regulation of migration processes and relations arising in this sphere and the legal status of foreigners and stateless persons in the Republic of Azerbaijan. Besides, the Code envisages that person applied for obtaining refugee status (together with family members accompanying him/her) are voluntarily placed in the Detention Centres until the issue of granting refugee status is resolved. Respectively, this period for persons who obtained refugee status lasts until being employed or acquiring dwelling, but not more than 3 months. For people to be expelled from the territory of the Republic of Azerbaijan, it is within the period defined in the Administrative Offences Code and the Code of Execution of Punishments, as well as the Migration Code. Moreover, foreigners and stateless persons are placed in compulsory order in the Centre in following cases and for following periods:

- In case there is a decision of relevant executive authority on detention in administrative way – up to 24 hours;

- In case there is a court decision on detention in administrative way – up to three days;

- In cases defined with relevant articles the Migration Code if there is a relevant decision of court – for the period indicated in decision, but not more than 6 months;

Paragraph 28:

The Migration Code envisages a ban to the re-entry for this group of persons to the country for defined period (up to 5 years).

Paragraph 29:

The Working Group visited Kurdakhani Detention Centre for Irregular Migrants on May 22, 2016 when only 8 foreigners were being detained at the Centre all of whom were placed there voluntarily. The persons from the mentioned categories are being placed in different facilities within the Centres and the regime employed vis-à-vis those persons is regulated by the Internal disciplinary rules of the Detention Centres for illegal migrants. According to those Rules, foreigners are detained at the Centre in special living rooms, respectively taking into account their family connection, age, sex, health and criminal record. The persons under compulsory placement are detained separately from voluntarily placed ones, relevantly women from men (except family members) and people under the age of 18 from adults (except family members). At the same time, foreigners detained in the Centre are placed apart from other foreigners detained in the Centre, who may present threat to their life and health.

Paragraph 30:

According to the Migration Code, only migrants and refugees voluntarily placed in the Centre enjoy the right to leave and re-enter the Centre. Issues related to leaving and re-entry of migrants from the Centre is regulated by the internal disciplinary rules of the Centre. According to the Rules, all migrants are getting acquainted with the regime to be applied in the Centre as they are placed there. They are also informed about their rights in the language that they can understand or with the assistance of an interpreter. The copies of leave papers proving the leave and re-entry of migrants have been presented to the members of the Working Group during their visit to the Centre, and they got acquainted with the information tables containing the information about the rights of detained persons, which were placed in different parts inside the Centre.

C. Deprivation of liberty of persons on the basis of health-related grounds and disability

Paragraph 33:

According to the "Law on the Psychiatric Support" patients are placed to the psychiatric institutions on voluntary basis.

Children with limited health capacity and people with self-service ability due to disability, as well as people without able-bodied relatives or legal representatives to take care of and provide assistance to them included to the category of persons in difficult living conditions according to the Law on Social Services. According to that law, people in this category are provided with social services at the Social service facilities in order to implement comprehensive measures aimed at elimination of social problems of people experiencing hardship, and creation of equal opportunities with other people in participation in public life. At present, there are social service facilities under the Ministry of Labour and Social Protection of the Population (MLSPP) for:

- children with disabilities and with limited health capacity,

- people with limited life activities as a result of mental disorder arose from congenital, illness or injury,

- persons with disabilities who need social support and protection,

- children with disabilities who are not involved in the education.

The above-mentioned people are accepted to those social service facilities on the basis of the application of parents, relatives, and other legal representatives (guardian, protector), as well as, others, but still with the consent of those legally authorized people.

According to the Law on Social Service, to ensure the social protection of people living in difficult conditions, including those with disabilities and their families, the MLSPP has been implementing a number of social projects to provide these people with social services, social rehabilitation, and support their families in the regions over the last five years. Expanding regional network of facilities providing social services is defined as a priority in the Development Concept "Azerbaijan - 2020: Outlook for the future," approved by the Executive Order №. 300 of the President of the Republic of Azerbaijan, dated December 29, 2012. Therefore it is planned to implement further projects aimed at ensuring full and equal participation of persons with disabilities in society. It also foresees the creation of alternative care facilities that will cover more cities and regions of the country.

137 children living in state social service institutions for children with disabilities were provided with shelter for permanent residence within the implementation of State Program for transferring children from public orphanages to families (deinstitutionalization) and alternative care in the Republic of Azerbaijan (2006-2015).

Paragraph 35:

People with disabilities who are taken to a facility can only leave that facility in the following cases:

- In case of changes in the health conditions of a person with disabilities that impede keeping those people at the facility; in such a case, the person with disabilities is dismissed from the institution and sent to appropriate treatment and prevention institutions;
- In case of application by the relatives of person with disabilities for the dismissal from facility.

In both cases a necessary report is prepared. The report is sent to the State Social Protection Fund under the MLSPP for consideration, and decision is made on temporary or permanent dismissal or refusal the application.

Paragraph 37:

Local Social Service Centre for Pensioners under the MLSPP operates in Ganja city. The Centre provides social and rehabilitation services for homeless persons with mental problems who have reached retirement age. But due to repair works currently conducted at that facility, several residents have been temporarily placed at the Neuropsychiatry Social Service Facility as reported #8 (currently #3 of State Social Protection Fund of the MLSPP). After the repair works, these people will be placed back at the Local Social Service Centre for Pensioners, located in Ganja city. At the same time, at the Neuropsychiatry Social Service Facility #3, ventilation and renovation works have been carried out, as well as water-sewerage system has been renewed, and the existing elevator system has been put into operation in order to simplify movement of the facility's residents. Persons over 18 years old with disabilities are accepted to this facility.

Paragraph 42 and 43:

Arrested and detained persons are detained in the cells that are not less than 4 m^2 per each person and supplied with bedding (pillow, mattress, blanket, bed sheet, pillow case). Pregnant women or women with children up to 3 years and underage persons are placed in better lit cells. It is not allowed to provide the temperature of the weather in the buildings of temporary detention places under +18 ^{0}C in cold season of the year.

The arrested or detained persons are provided with free three-time meals a day in accordance with modern hygiene requirements and food norms prepared taking into

consideration the age, health condition and religious traditions in accordance with the defined norms.

The pregnant women or women with children up to 3 years and the underage persons are provided with special meal norms.

D. Deprivation of liberty in the context of the criminal system

1. Legal definition of offences

2. Administrative offences

Footnote 26:

Article 221.1 of the Criminal Code provides the punishment by public works for the term from 320 hours up to 400 hours.

Paragraph 51:

According to Article 14 of the Criminal Code, "Crime shall be admitted as a socially dangerous action (action or inaction), forbidden by the present Code, under threat of punishment on guilty." To ensure the proportionality between the offences and related acts, the law on the amendments to the Criminal Code has been adopted by the Milli Majlis during spring session of 2017. Furthermore, the President signed an Executive Order on 10 February 2017 in this respect, and draft law has been prepared according to that Order. The main aspects of the draft law are to decriminalize some criminal offences, add alternative punishments to imprisonments to the sanctions, reduce punishment levels and etc.

Prosecutor's Office of the Republic of Azerbaijan is an integral centralized, body based on subordination of territorial and specialized prosecutors to the General Prosecutor. Law enforcement agents are the part of the Executive power of the State and do not depend on the prosecution office.

Moreover, according to Article 61 of the Constitution, everyone has the right to obtain the qualified legal advice. In specific cases envisaged by legislation the legal advice shall be rendered free, at the governmental expense. Every citizen has the right to lawyer's counsel from the moment of detention, arrest or accusation with crime by competent state bodies. According to Article 14 of the Criminal Procedure Code, a detained or arrested person shall be immediately informed of reasons for detention or arrest, the nature of suspicion or charge and his right not to give a statement and to seek legal aid from defence counsel. According to Article 19 of the Criminal Procedure Code, during the criminal prosecution the preliminary investigator, investigator, prosecutor and court shall take measures to guarantee the right of the victim, the suspect and the accused to proper legal aid. During the criminal proceedings, the prosecuting authority shall secure the right of the victim, the civil party or his legal representative, the legal representative of the suspect or accused and the defendant to the civil claim to use the legal aid of the representatives invited by them. During questioning of the victim or witnesses, the prosecuting authority may not prevent their lawyer to accompany them. The prosecuting authority shall involve the legal representative of the suspect or the accused in the manner provided for in this Code. The presence of counsel for the defence or the legal representative of the suspect or the accused at the criminal proceedings may not limit the rights of the suspect or the accused.

3. Right to be informed of the charges

Paragraph 54:

According to Article 26 of the Criminal Procedural Code, the criminal justice proceedings in the courts are conducted in the state language of the Republic of

Azerbaijan or in the language of the part of the population of the relevant territory constituting majority.

The body implementing the criminal process ensures the following rights of the participants of the criminal process not knowing the language in which the criminal justice proceedings are conducted:

- to explain to participants of the criminal process the right to use his/her native language;

- to use the assistance of the interpreter in primary investigation and court hearing free of charge, to get fully familiarized with criminal case materials or other materials connected with criminal prosecution after completion of primary investigation, to take part in the court in native language.

The body implementing the criminal process submits the necessary documents to the relevant persons in the language in which the criminal justice proceedings are conducted.

All persons admitted to places of detention and prisons, including foreigners, are informed in their language verbally and in writing about the detention conditions, their rights and freedoms, while their requests and questions are answered in accordance with legislation. Diplomatic and consular representations of foreigners' States in the Republic of Azerbaijan, as well as local or international organizations which took them under protection are informed about their arrest and admittance to places of detention without delay. Such persons are provided with necessary conditions for holding confidential meetings and telephone calls; also they are able to meet with representatives of international organizations, including the ICRC.

Paragraph 55:

After those six individuals of different nationalities arrested in the administrative order, there was made a contact with law enforcement agencies of the countries of their citizenship, as requirement of procedural rules. In case of those people suspected in their country for participating in armed groups operating in Iraq and Syria, they were detained in the Investigative Isolator and Temporary Detention Facility of the State Security Service (SSS) to implement measures for extradition to the countries of their citizenship. While being detained in the Investigative Isolator and Temporary Detention Facility of the SSS the rights and freedoms of those detainees were fully provided.

4. Effective access to legal counsel and to legal aid

Paragraphs 56, 58, 60:

Relevant conditions are established for provision of meeting and confidential communication of the arrested or the detainee with his/her defender and legal representative without restricting the number and duration of visits from the moment of detention or announcement of decision on pre-trial detention.

According to the Criminal Procedural Code, a person suspected in committing crime has the rights to know the reason of his/her detention, to get legal assistance of the defender, to get written notification from the person who detained him/her, the inspector, the investigator or the prosecutor on his/her rights and other rights from the moment of his/her detention or from the moment of announcement of the decision on pre-trial detention.

National legislation does not put any limits on the frequency and duration of legal assistance meetings of detained and sentenced persons with their lawyers, as well as other persons entitled to provide such assistance. For the purpose of ensuring confidentiality of such meetings, special rooms for lawyers with all necessary conditions were allocated at the penitentiary establishments. The letters of lawyers

addressed at their own initiative to the Penitentiary Service regarding provision of legal assistance are replied immediately, while necessary arrangements are made for the respective right to be carried out.

At the same time, these persons' telephone calls with their close relatives and lawyers, as well as their correspondence are carried out without any supervision. In exceptional cases prescribed in legislation, only by adopting a relevant decision and by informing the detained or sentenced persons of such decision, their correspondence, meetings and telephone calls may be subjected to censorship for a certain period. The detained or sentenced persons can appeal against this decision to the superior authority or court.

5. Prohibition of torture and other forms of ill-treatment

Paragraph 64:

The complaints of the arrested or detained persons on any bodily injuries observed on them and in respect to the torture or other cruel, inhuman, or degrading treatment they undergone until received in the temporary detention place are registered immediately after receipt by the Temporary detention place, and they are examined by the medical personnel within 24 hours.

Complaints relating to torture or other cruel, inhuman, or degrading treatment, as well as written information on the bodily injuries supposed to be caused in the result of torture, or other cruel, inhuman or degrading treatment identified during medical examination are transmitted to the respective prosecutor in charge of procedural supervision on primary investigation for further examination.

Paragraphs 65-66:

Information regarding cases of torture at the Pre-Trial Detention Facility No. 2 was inquired into, but the mentioned claims were not confirmed. Meanwhile, other unlawful situations were discovered during the inquiry. In this regard, the Director of the Facility Mr. Shakir Bayramov, was disciplined and expelled from the justice system for grave professional misconduct, while various disciplinary measures were applied to other employees of the Facility. At the same time, beddings of the persons detained at the facility were replaced with new ones, two new rooms were repaired and given to use as cells, and repair works were conducted at the kitchen, cells, and sanitary units. In accordance with the approved norms, the detainees are provided with hygiene products, such as tooth brushes, tooth paste, soap, and detergent; while the cells, as well as other rooms are being regularly disinfected by the experts invited from the Ministry of Health. At the same time, the new establishment near Ganja City, including the pre-trial detention facility, is under construction.

There are two hotlines provided by the Ombudsman Office, which are functioning in 24/7 regime. One of them is hotline on children rights violations, another one is on torture and other ill-treatment measures. The detained persons, their family members and advocates can denounce instances of torture using hotlines. All received appeals are investigated and in case of need they are addressed to Ministry of Justice, Ministry of Internal Affairs and General Prosecutor's Office for further investigation. The persons who have addressed Ombudsman via hotline are informed about the results of the investigation officially. The posters with information about the hotlines have been placed in detention centres, penitentiary facilities, education and health institutions.

6. Right to be tried without undue delay and to be brought promptly before a judge

Paragraph 68:

According to Article 159 of the Criminal Procedure Code the maximum term of pre-trial detention is 13 months in grave cases and not more than 19 months in specially grave cases.

7. Children's rights and juvenile justice system

Paragraphs 70 - 76:

Juvenile detained persons are held separately from other persons at the Baku Pre-trial Detention Facility and Pre-Trial Detention Facility No. 2, at the pre-trial detention facilities under the Shaki Penitentiary Establishment and the Nakhchivan Prison of Mixed Regime. At the Pre-trial Detention Facility No. 2 juvenile detainees are detained separately from others and in cell with normal conditions (as of 15 May 2017, 5 persons in a 6-person cell).

At the same time, in 2015-2017 the establishment's epidemiological condition was stable; no transmissible diseases were diagnosed among juveniles. Relevant conditions will be arranged at the Ganja and Lankaran penitentiary complexes to ensure that juveniles are detained separately; they will serve their sentences at the correctional facilities built solely for them.

Minor sentenced persons are held in Baku and at the Correctional Facilities under the Nakhchivan Prison of Mixed Regime. Construction of the new prison for them in line with international standards is almost finished. At the same time, it is planned to hold such convicts at the separate modern Correctional Facility of the Ganja Penitentiary Complex.

Proceedings on the juveniles are regulated in Articles 428-435 of the Criminal Procedural Code.

The detained or arrested persons are placed in the cells by taking into consideration their age, sex, previous conviction and health.

According to Article 56 of the Criminal Code, the following persons shall have right to compensation for prejudice caused by error or abuse by the prosecuting authority:

- an accused who is acquitted;

- a person against whom the criminal prosecution is discontinued on the grounds of Articles 39.1.1., 39.1.2., 39.1.6.-39.1.8. and 39.2. of this Code;

- a person against whom the criminal prosecution should have been discontinued on the grounds of Articles 39.1.3., 39.1.4., 39.1.10. and 39.1.11. of this Code, but was not discontinued in time and was pursued.

- a person against whom the criminal prosecution should have been discontinued on the grounds of Article 39.1.12. of this Code, but continued although that decision was upheld;

- a person unlawfully arrested or placed in a medical or educational institution by force or a person kept in detention on remand without legal grounds for longer than the prescribed period of time;

- a person unlawfully subjected to coercive procedural measures during the criminal proceedings in the circumstances provided for in Articles 176 and 177 of this Code.

According to Article 58, compensation for prejudice suffered is paid. Moreover, legislation does not see any need for the limitation for the pre-trial detention period

for children and this is not contrary to any international agreement on the prevention of human rights.

All the necessary conditions and infrastructure were created at correctional establishments for minor convicts in accordance with the legislation in force. To organize more efficiently their free time, secondary and vocational schools, computer rooms, a gym, a library, an English language course operate at those establishments. At the same time, social organizations are closely involved in the correction of juvenile convicts. In accordance with the legislation, the Custody Council, which is consisting of state organs, representatives of the Office of the Ombudsman and the public associations, functions within the Correctional Establishment.

The function of the Council was approved by the 15 January 2001 Decision of the Cabinet of Ministers. The Council assists the Correctional Establishment's administration in organization of the educational process, strengthening its material and technical basis, resolving issues related to social security of convicts, and in creating occupation and welfare conditions for released persons. Moreover, the Parents Committee, consisting of the sentenced persons' parents and other close relatives, functions within the Correctional Establishment in accordance with the relevant rules approved by the Ministry of Justice. Main purpose of this Committee is to increase the efficiency of the correctional work conducted on the convicts and to assist the establishment administration in organizing the correctional activity. Both these public bodies are closely involved in organization of the inmates' free time.

At the same time, according to the Execution of Punishments Code, for exemplary behaviour, honest attitude toward labour and education, active participation in amateur organizations and educational events, stimulation measures such as attending sportive, cultural and other events can be applied to juvenile convicts. This practice is used regularly.

8. Allegations of corruption of law enforcement authorities and the judiciary

Paragraph 79

The Penitentiary Service pays special attention to ensuring the rights and freedoms of sentenced and detained persons, immediate reaction of the staff to violation of those rights and to cases of corruption, as well as thorough investigation when necessary is provided. Boards with the Service's hotline numbers were hanged at the entrances and territory of the penitentiary establishments for the purpose of reporting on corruption cases. In case criminality of the reported cases is confirmed the materials collected are forwarded to the prosecution authorities.

In 2016, as a result of inquires conducted into 13 complaint letters concerning 12 cases of corruption, 11 cases and claimed circumstances were not confirmed, while circumstances raised in 2 letters were sent to the prosecution authorities for legal assessment.

During the 5 months of 2017, as a result of inquires conducted into 8 letters concerning corruption, 5 circumstances and cases were not confirmed; while due to the fact that 3 cases showed elements of corruption, 1 employee was dismissed from the justice system and 2 employees were subjected to other disciplinary measures.

During the inspection conducted in the pre-trial detention facility No.2, facts on the receiving bribes by the staff of the institution regarding meeting and presenting parcels from convicts' relatives to them and other abuse cases in this field were not confirmed.

E. Deprivation of liberty in the context of the exercise of human rights or fundamental freedoms guaranteed by international norms

Paragraph 81

Persons detained due to illegal trafficking of drugs envisaged in the Criminal Code of the Republic of Azerbaijan, Mr. Giyas Hasan oghlu Ibrahimov and Mr. Bayram Farman oglu Mammadov were admitted on 13.05.2016 to Baku pretrial detention facility of the Penitentiary Service. During admission to the establishment and during detention, their complaints concerning the exposure to the physical and psychological pressures by the staff of the establishment and condition of detention were not received and their rights and freedoms were fully ensured. Right to meeting with their advocates, also close ones, right to phone calls and right to receive parcels were ensured.

V. Conclusions

Paragraph 89

During the formation of the new staff of National Preventive Mechanism in 2016 relevant recommendations of UN Subcommittee on Prevention Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) and European Committee for Prevention of Torture or Degrading Treatment or Punishment (CPT) were taken into consideration.

VI. Recommendations

Paragraph 91 (a)

In the case of the crimes committed concerning competence of the SSS in order to ensure that suspect or the accused is held in accordance with established procedure and time determined by legislation, the official work in Temporary detention facility and remand facility of the SSS has been arranged according to the Law of the Republic of Azerbaijan on Provision of rights and freedoms of detainees dated May 22, 2012, as well as relevant decrees of the President of the Republic of Azerbaijan, the Criminal Code, the Code of Criminal Procedure and the Penal Execution Code, provisions of orders and directives of the chief of the SSS.

The control over implementation of the laws on investigation activity of the SSS is realized by the prosecutor's office and court bodies and the cases of violation of the provisions of the Code of Criminal Procedure concerning ensuring rights of persons detained in remand facility of the SSS are not registered by those bodies.

Paragraph 91 (b-c)

The Public Committee established in 2006 and consisting of influential legal defenders and representatives of NGOs, for the purpose of ensuring public control and transparency in the judicial system, functions effectively and independently.

It should be noted that, by the 26 May 2006 Decision of the Board of the Ministry of Justice, the Election Commission with a broad composition consisting of MPs, community representatives, scholars, religious figures and representatives of respective bodies was established in order to select candidates for this body in accordance with the respective Rules regulating the activity of the Committee. The general public was informed of a competition regarding the formation of the Public Committee by the Election Commission, programmes and proposals of relevant organizations were adopted. In the previous period, as a result of objective and fair election, eight compositions of the Public Committee in total were formed.

The Public Committee independently carries out regular visits to various penal institutions of its choice, without informing in advance, meeting with prisoners,

paying attention to a wide spectrum of issues subject to monitoring, at the same time persons deprived of their liberty are provided with the legal aid, with close involvement in the application of parole.

Adoption of the Law on Public participation in 2013 gave an impetus to the improvement of partnership with civil society institutions, the authorities of the Public Committee were expended in accordance with this law, as well as its term of office was extended and the Committee is actively involved in activities implemented in various fields of justice. The Committee members attend international events, press conferences "open door" days, board meetings, consultations and seminars, meeting of the Appeal Council, recruitment exams (at testing and interview stages) organized by the Ministry of Justice. Furthermore, civil society institutions are involved in the permanent monitoring group operating under the ministry and become familiar with the status of organization of work in judicial agencies and courts, which gives them an opportunity to learn public opinion and conduct anonymous surveys with citizens.

Paragraph 91 (d)

On the basis of paragraph 1 of Decree of the President of the Republic of Azerbaijan dated January 13, 2009 it has been defined that the Commissioner (Ombudsman) for Human Rights fulfils, in accordance with the legislation and international obligations, the functions of the National Preventive Mechanism (NPM) mentioned in the Optional Protocol to the "UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment".

The activity of Ombudsman in the capacity of NPM is transparent and independent. The awareness raising seminars and trainings on the activity of NPM have been organized for police, health, education, migration staffs. The 70 % of NPM recommendations were adopted and sent to execution.

Recommendations in relation to the criminal justice system, fundamental legal safeguards, and access to legal counsel:

The Law on the Fight against Terrorism, dated June 18, 1999, is the main domestic legal document for combating terrorism. This law determines the legal and organizational guidelines for combating terrorism in the Republic of Azerbaijan, the mechanism for inter-agency co-operation between the state bodies in charge of anti-terrorism operations, as well as the rights and duties of these bodies and individual citizens. It has 5 sections and 22 articles. The law contains and interprets definitions of "terrorism", "terrorist", "terrorist group", "terrorist organization", "terrorist activity", "international terrorist activity", "financing of terrorism", "fight against terrorism", "operations against terrorism" etc. This law defines "terrorism" as the "perpetration of explosions or fires or commission of other acts which threaten to endanger the lives of people, injure their health, cause substantial damage to property or give rise to other socially dangerous consequences with the aim of disturbing public order, sowing panic among the population or influencing the adoption of decisions by the organs of State power or international organizations, and also the threat of committing such acts with the same aim"

The appropriate amendments to the law "On Fight Against Terrorism" and the Criminal Code, introduced in accordance with Law No. 332-IIQD "On Amendment of Some Legislative Acts of the Republic of Azerbaijan following the enforcement of law of the Republic of Azerbaijan "On Accession of the Republic of Azerbaijan to the International Convention for the Suppression of the Financing of Terrorism"" of 17 May 2002, made the punishment for terrorist activity (article: 214) and for deliberate disinformation about terrorism (article: 216) more severe and prescribed the inclusion of a new article introducing criminal liability for the financing of terrorism (Article: 214-1).

A number of legislative amendments made to the domestic legislation was related to the Council of Europe Convention on the Prevention of Terrorism" signed in Warsaw on May 16, 2005 approved by the Law of the Republic of Azerbaijan of February 03, 2014 No.891-IVQ. For implementation of the Warsaw Convention to the Criminal (domestic) Legislation by the Law of the Republic of Azerbaijan of March 04, 2014 No.919-IVQD, the new articles which provide criminal liabilities such as "Public appeals to terrorism" (article: 214-2) and "Conducting exercises with a terrorism purpose" (article: 214-3) were included into the Criminal Code.

Thus, along with such crimes as terrorist activity, financing of terrorism and deliberate disinformation about terrorism, also in the criminal legislation of the Republic of Azerbaijan was established criminal liability for offences such as public appeals to terrorism and conducting exercises with a terrorism purpose.

At the same time, there were defined forms of the responsibilities and criminal-legal actions which will be applied to the legal persons for the connection to terrorist offences according the amendments to the criminal legislation.

The Law of the Republic of Azerbaijan "On the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism" dated 10, 2009 defined monitoring mechanism that obtains the controlling actions by the financial monitoring organ and normative content of the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism definitions was specified in this law.

On 10 February 2017, President of the Republic of Azerbaijan signed an Executive Order on improving work in the penitentiary system, humanization of the punishment policy and expansion of alternative punishments and procedural enforcement measures not associated with isolation from society. The purpose of the Executive Order is to renew the approach to penal policy, criminal legislation, the issues regarding ensuring of the convicts' rights, as well as improvement of functioning of penitentiary system and application of progressive international experience in this field. Being a program-type document, by defining strategic goals this Executive Order is a roadmap for courts, justice, prosecution authorities and investigative agencies.

Working group comprised of representatives of the Supreme Court, Prosecutor General's Office, Ministry of Justice and Ministry of Interior was established to ensure implementation of the instructions and recommendations given in the Executive Order. A number of changes to the legislation are envisaged in the Executive Order, including those related to decriminalization of crimes in the economic sphere, addition of sanctions for crimes alternative to deprivation of liberty, wider application of existing alternative punishments, release on parole and conditional sentencing, and use of preventive measures alternative to arrest. Relevant draft laws have already been prepared by a joint group of the Ministry of Justice, the General Prosecutor's Office and the Supreme Court.

Few years ago the Supreme Court summarized the judicial practice associated with selecting arrest as a restraining measure, introduced the summary at a plenary session and adopted a detailed resolution. In addition, courts were advised to be sensitive to this issue, and to widely use measures alternative to detention in accordance with the requirements of the European Convention on Human Rights and the criminal procedure legislation. Moreover, for gross violations in this area, about 30 judges and prosecutors were brought to strict disciplinary liability and three judges had their powers terminated.

In order to implement the recommendations given in the Order in this regard, the Supreme Court has recently reviewed and summarized judicial practice and the results has been discussed broadly at the Plenary Session. In the Session it was recommended to the preliminary investigation authorities and the courts to strictly comply with the requirements of criminal procedural legislation when applying

procedural enforcement measures widen the use of punishments and preventive measures not associated with deprivation of liberty in order to achieve the purposes of punishment and restrictive measure without isolating the person from society.

One of the main novelties of the Order is connected with the use of modern electronic means of monitoring in the course of execution of punishments and application of preventive measures. The use of such devices will create conditions for a wider application of measures of restraint and punishment that do not involve isolation from society. In order to apply "electronic bracelets" in our country, international experience was studied and a presentation of their various samples was conducted, relevant proposals were prepared to amend regulatory legal acts regarding the mentioned issue.

Upon the Order, to organize the effective control over the execution of punishments not related to deprivation of liberty and increasing the efficiency of the management in this field, the establishment of the Probation Service under the Ministry is envisaged. In order to use international experience in this field, employees of the Ministry are sent to foreign countries to get acquainted with the models existing in the world. A package of specific proposals has already been prepared on the organization of this service in our country. Within the framework of a project to support the development of the justice system being implemented by the Ministry of Justice in cooperation with the European Union, pilot projects are being prepared in our country related to setting up the Probation Service, conducting training courses for employees and the use of electronic monitoring of convicts.

Significant instructions were given in the Order in view of increasing the importance of the community works as punishment not associated with deprivation of liberty. In this regard, necessary measures are being taken by the Ministry, including the draft law determining the liability of officials for allowing convicts to evade punishments in the form of community works.

Also, the Order gave concrete instructions in respect of modernization of the

penitentiary field, updating the infrastructure, increasing supervision over detention conditions of convicts, broadening the production areas, forming a corps of professional staff, and effective organization of establishments' security.

Moreover, the Order prescribes to ensure that in Settlement Colonies sentences are served in accordance with the procedure envisaged in the Enforcement of Punishments Code and that convicts strictly comply with the regime rules, as well as to prevent conditions for corruption and other negative circumstances in this area.

Mr. Mykola Gnatovskyy, President of the European Committee for the Prevention of Torture (CPT), who recently paid a visit to the country, valued Azerbaijani President's Executive Order Azerbaijan as the cornerstone of the new penal policy, emphasizing that this document's essence fits the purposes of the Committee and that it will serve the improvement of the penitentiary system and reliable protection of the sentenced persons' rights.

In order to enable convicts to serve their sentences closer to their places of residence, significant works were conducted to create penitentiary infrastructure in various regions of our country; Baku Pre-Trial Detention Facility, modern penitentiary complexes in the Nakhchivan Autonomous Republic and in Shaki were built and opened for use. At present, such facilities are being constructed in Ganja and Lankaran, as well as in Zabrat Settlement of Baku for women and juveniles, and for lifers in Umbaki.

Successive steps were taken in recent years to improve the quality of healthcare for prisoners, high achievements were reached in this area in close cooperation with international organizations, including in the fight against tuberculosis among inmates, which is exemplary for other states. It is no coincidence that in the last 20

years the number of deaths decreased significantly, while the number of deaths due to tuberculosis decreased 100 times.

Special attention is being paid in Azerbaijan to the application of parole. For the purpose of eliminating negative circumstances in application of parole, ensuring collegiality, objectivity and transparency, in 2013 the Ministry established a special Commission consisting of officials of the Ministry and the Penitentiary Service, as well as representatives of the public and rights defenders.

In the past period the Commission has deemed over 7 thousand convicts deserving to be released on parole or transferred to a prison with a more lenient regime; 97% of such cases reviewed by the courts were resolved positively. The minimum number of recidivism among prisoners released on parole shows objectivity of this process and that those convicts are on their way toward real correction. For the purpose of ensuring maximum transparency in the work of the Commission, the practice of inviting the parents and loved ones of sentenced persons to its meeting is being carried out. Recommendations made by the Public Committee in respect of this process shall be especially mentioned.

At the same time, on the initiative of the President of Azerbaijan important changes were made to the criminal legislation related to decriminalization of certain acts in the economic sphere. The Ministry of Justice has identified the circle of persons covered by the new law and sent motions to the courts regarding more than 1,700 convicts, many of whom were released from custody or had their sentences shortened.

In the framework of policy on the decreasing the number of persons kept in the penitentiary establishments, by the Decision of the Milli Majlis on the declaration of amnesty on the occasion of 28 May – Republic Day, 2.901 convicts and by 06.05.2016 Law of the Republic of Azerbaijan in relation with the decriminalization of certain crimes in the economic sphere, 99 convicts were released from penitentiary establishments. At the same time, during 2016, 1.503 convicts were released from custody on parole and 412 convicts were pardoned by 19.03.2017 Executive Order of the President of the Republic of Azerbaijan. Mentioned measures not only influenced positively to the decrease of the number of convicts, but also it created suitable opportunity for their placement in accordance with the legislation.

Pardon and amnesty acts are widely applied in Azerbaijan. Since regaining independence in 1991, 62 Pardon Acts were signed by the President, which covered 6,907 persons overall. Moreover, 11 Amnesty Acts approved by the Milli Majlis covered 117,707 persons in total.

The meetings of convicts and detainees with their family members are regulated by the Code on Execution of Punishments and Law on the rights and freedoms of individuals kept in detention facilities. A number of such meetings are determined for detainees 4 times a month for duration of up to 4 hours and the number of meetings (short-term and long-term) for convicts depends on the type of prison regime set by the judgment of the court. At the same time, if convicts are placed to the improved detention condition as an incentive measure in the manner prescribed by legislation, the number of their rights to meeting increases. Furthermore, convicts may be provided with additional meetings as incentive measure for the exemplary behaviour.

According to Article 81.6 of the Code on Execution of Punishments, establishment administration enables close relatives of the convicts who suffer from serious health problems to visit them.

All persons admitted to places of detention and prisons are ensured with medical examination carrying out by relevant doctors who are not only subordinate to directors of the establishments. Such examinations are carried out confidentially taking into account the gender, and the results are included in the medical records.

Each admitted detainee or a convict is informed by the administration about their rights and freedoms and rules of detention conditions. At the same time, admitted persons have the right to get acquainted with the respective laws, legal acts in the libraries of establishments.

Legislation provides advocates with full independence. These are protection of advocate secrecy, response of advocate inquiring, guarantees of representative rights and etc. Moreover liability of the advocates is overseen by Advocates Board which is non-governmental, independent and self-regulated institution.

Recommendations in relation to allegations of torture and forced confessions

The Penitentiary Service pays a special attention to the issues of ensuring rights and freedoms of convicts and detainees, also immediate reaction to cases of their violation by the staff, corruption, torture and other degrading treatment and if necessary its strict investigation is ensured. In order to provide information regarding torture and other degrading treatment, also corruption boards reflecting the contact numbers of "Hotline" of the Service was put on the entrance and in the area of the penitentiary establishments. If criminality of a crime is determined during internal investigation conducted regarding letters received on these cases, collected materials are presented to prosecution authorities. During 2016, relevant investigations were conducted regarding 22 letters on 8 cases relating to torture and other degrading treatment; nevertheless, indicated circumstances and facts were not confirmed.

At the same time, according to legislation, detainees and convicts meet regularly with their close relatives, as well as other persons who are of interest to them, and their advocates correspond uncensored and they have a right to telephone calls 2 times a week. These rights are sufficient means to protect them from torture, inhuman and degrading treatment.

According to the Constitutional Law on "Ombudsman of Azerbaijan Republic" Ombudsman examines the complaints of the citizens, foreigners and persons without citizenship, legal persons on the violation of human rights.

Moreover, in order to ensure rights of convicts by the legislation and to prevent degrading treatment, the Commissioner for the Human Rights (Ombudsman), members of its National Preventive Group, Public Committee under the Ministry of Justice, representatives of the International Committee of the Red Cross have the rights to access the penitentiary establishments at any time, without hindrance and prior notification.

According to Article 60 of the Constitution, legal protection of rights and liberties of every citizen is ensured. Everyone may appeal to law court regarding decisions and activity (or inactivity) of state bodies, political parties, trade unions, other public organizations and officials.

Also it shall be informed that in accordance with Articles 90.7.20 and 91.5.30 of the Criminal Procedure Code the suspect shall exercise the rights to complain against decisions and acts of the preliminary investigator, investigator, prosecutor or court as well as to withdraw his own complaint and that of his defence counsel and to lodge complaints against the decisions and acts of the preliminary investigator, investigator or prosecutor.

In accordance with Article 68 of the Constitution, rights of the person suffered from crime and also from usurpation of power are protected by law. Everyone has the right for compensation by the state of losses borne as a result of illegal actions or non-action of state bodies or their officials. This Constitutional provision is also envisaged by Article 12.2 of the Criminal Procedure Code, where the victim of a criminal act shall have the right to demand criminal prosecution, to take part in it as a victim or as a victim bringing a private prosecution and to obtain compensation for non-material, physical and material damage.

Special attention is paid to the protection of the rights and freedoms which are identified in the Constitution and other legislative acts in the prosecution of criminal cases in the SSS. Rights of all persons participating in criminal process are ensured. No cases of torture, cruel, inhuman actions, other degrading behaviour by inspectors or senior officials towards convicts were registered. At the same time, no appeal, application or complaint has been filed regarding violation of rights relating to detaining conditions, undergoing torture or facing pressure, as well as concerning body injuries from themselves and their defenders.

Recommendations in relation to allegations of corruption

Topics on the fight against corruption, prevention of torture are included in the professional training programs for judges, judgeship candidates, prosecution, justice bodies and penitentiary service employees. In the framework of judicial-legal reforms, important legal and institutional measures were determined and implemented in order to combat corruption in the judicial work.

Termless appointment of judges, assessment of their activities by the independent body – Judicial-Legal Council, democratic bases of involvement in the disciplinary liability were prescribed in the new legislation.

Moreover, for the purpose of preventing corruption cases, reception of citizens by the judges was prohibited and publication of court decisions was envisaged in order to ensure transparency.

The Code of Ethical Conduct, regulating specific ethical requirements for judges, also their professional ethical issues, their conduct outside of their work, and determining their attitudes to their professional activity, was adopted by the Judicial-Legal Council; and a great importance was attached to following the rules of ethical conduct in evaluation of the activity of judges.

The number of judge positions was increased twice and the number of employees of court apparatus was increased by 75%, more than 300 well-prepared lawyers were selected and appointed to judge posts in accordance with new progressive rules valued as exemplary by influential European Institutions (including CEPEJ).

Regular improvement of judges' material provision, as well as, increase of wages up to 40 times, determination of additional guarantees for young judges, in general also the increase of budget of courts 26 times within the last 10 years, played an important role in the prevention of corruption cases in the work of courts.

At the same time, in order to ensure deep and professional examination of letters concerning offences related to corruption received by the Judicial-Legal Council, a special Sector on the investigation of letters regarding corruption is established at the Judicial Legal Council. 32 judges who gave rise to grave offences, as well as created artificial obstacles to the implementation of citizens' rights were disciplined seriously and powers of 6 of them were prematurely terminated, 4 of them were demoted and the workplaces of 7 of them were changed.

Moreover, substantial amendments were made to the legislation regulating the work of courts taking into account the international practice in the fight against corruption, the independence of the judiciary was further strengthened according to new laws adopted recently and its self-governance powers were broadened. According to amendments made to the Law on Judicial-Legal Council, prevention of meddling in judges' activity was referred to the powers of the Council, the role of the Council was increased in the appointment of judges, dismissing their powers, determination of budget of courts and reducing judges' wages was prohibited by the Law.

According to Law on Combating Corruption, offences related to corruption give rise to disciplinary, civil, administrative or criminal responsibility as provided for in the legislation.

Chapter 33 of the Criminal Code determines criminal liability for corruption crimes and other crimes that are against interests of public service. Criminal liability was determined for abusing official powers (Article 308), excess of official powers (Article 309), reception of a bribe (Article 311), illegal influence on the decision of the official(Article 312-1), service forgery (Article 313) in this Code. Judges may also act as the subjects of the mentioned crimes.

If natural persons and legal entities have information related to corruption by the judges, they can appeal to the Judicial-Legal Council.

Taking into account the importance of educational measures in the fight against corruption, these topics are widely covered in the initial and continuous training of judges. Thus, in recent years numerous trainings aimed at improving their skills in combating corruption were conducted for up to 250 judges in the framework of cooperation with influential international organizations and states, which have positive practices in this field. At the same time, various actual topics regarding fight against corruption were included into initial long-term training course of judge candidates.

Recommendations in relation to the juvenile system

In the framework of judicial-legal reforms conducted in the Republic of Azerbaijan, special attention is being paid to the development of juvenile justice, in close cooperation with the Azerbaijani Office of UNICEF. Since 2008, annual action plans are signed with UNICEF and necessary measures are taken for their execution.

Baku Court on Grave Crimes analyzes cases on crimes committed by minors or against them based on various criteria (the object of the crime, age of the accused persons and of the victims, gender and so on).

Taking into account the conducted analyses and Article 435.1 (criminal cases concerning offences committed by minors shall be examined by experienced judges) of the Criminal Procedure Code, it was proposed that the cases of minors (as accused persons and victims) shall be reviewed by more specialized judges and that this shall be first applied at the Baku Court on Grave Crimes as a pilot project. To this end, by the changes made to the "Instructions for conducting clerical work at the courts of the Republic of Azerbaijan", since 1 October 2014, a concrete list of judges to review cases of minors was determined. More judges were added to the list in April 2015, due to increase of the work load in this area. Technically equipped courtrooms and separate rooms for children were allocated at the Baku Court on Grave Crimes.

In order to improve the professionalism of the abovementioned judges in the field of juvenile justice, a training course with a specifically designed curriculum was held at the Academy of Justice with the involvement of well-known experts, lawyers and judges.

Preventive measure of arrest is applied to suspected and accused minors in exceptional cases and for the shortest period possible. Such persons are sentenced to fines, community works, correctional works, and imprisonment for a certain term (ten years maximum). In most cases, sanctions not associated with imprisonment are applied to juvenile criminals.

In accordance with legislation, in places of detention and in prisons, juveniles are kept separately from others. They are provided with maintenance, protection and other individual assistance based on their age, sex and personality traits.

Respective measures are being taken in order to provide better detention conditions for juvenile prisoners, general secondary education and vocational training, and involving them in socially beneficial labour and sports; also construction of the new modern establishment in the capital's Zabrat Settlement is underway.

Instead of transferring prisoners who have reached the age of 18 to prisons, it is preferred to detain them in the Correctional establishment for two more years. Sentence execution requirements, food norms and material provision determined for minors are applied to such persons as well.

There are a number of provisions in the relevant legislation regarding contacts (meeting, telephone calls and correspondence) of juvenile detainees and convicts with their parents and close relatives. At the same time, if necessary, juveniles are enabled to contact their parents urgently, who are informed immediately and are invited to the Correctional Institution.

The Criminal Code envisages provisions on the punishment of this kind of illegal acts towards any person without age difference.

Recommendations in relation to migrants, asylum seekers and refugees

The rights of persons, both voluntarily and compulsorily placed in the Centre (to meet with advocate, legal representative, relative and other persons providing legal aid or who are in interest of the person to connect; to contact urgently with diplomatic representation and consulate of his/her country in the Republic of Azerbaijan, or national or international organizations undertaking him/her patronage; to apply with suggestions, applications and complaints in terms of issues such as legality or validity of his/her detention in the Centre, or violation of rights and legal interests and etc.) are covered in Articles 87.1.1-87.1.23, and 88.0.1-88.0.3 of the Migration Code.

Furthermore, the information on the detained persons is immediately delivered to the diplomatic representations and consulates of their respective countries of origin. Foreigners are detained at the Centre in special living rooms, by taking into account their family connection, age, sex, criminal record, health condition. The persons under compulsory placement are detained separately from voluntarily placed ones, relevantly women from men (except family members) and people under the age of 18 from adults (except family members). At the same time, foreigners detained in the Centre are placed apart from other foreigners who may pose threat to their life and health.